



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of  
Supervisors

105 E. Anapamu Street, Suite  
407

Santa Barbara, CA 93101  
(805) 568-2240

Department Name: General Services  
Department No.: 063  
For Agenda Of: October 4, 2011  
Placement: Set Hearing  
Estimated Tme: 5 Minutes on  
November 1, 2011  
Continued Item:  
If Yes, date from:  
Vote Requirement Majority

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**TO:** Board of Supervisors  
**FROM:** Department Bob Nisbet, Director (560-1011)  
Directors(s) General Services Department  
Contact Info: Paddy Langlands, (568-3096)  
Assistant Director, Support Services Division  
**SUBJECT:** Notice and Resolution of Intent to Grant a Private Pipeline Franchise to ERG Resources, LLC, in County Roadway; Fourth and Fifth Supervisorial Districts

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

- a) Approve the attached Notice of Exemption addressing the environmental impact of ERG Resources, LLC's use of the County roadways of Palmer Road and Cat Canyon Road near the Cat Canyon Oil Fields north of Los Alamos, in the unincorporated area of the County, and direct the Clerk of the Board to post the Notice of Exemption; and
- b) Adopt the Notice and Resolution of Intent to Grant a Private Pipeline Franchise to ERG Resources, LLC, for a twenty (20) year term, pursuant to Santa Barbara County Code Section 2-82, and direct the Clerk to publish the attached Public Notice in the Santa Maria Times at least ten days prior to the First Hearing date of November 1, 2011; and
- c) Set hearing date of November 1, 2011, on the Departmental Agenda to consider introduction (first reading) of an Ordinance granting a Private Pipeline Franchise to ERG Resources, for a twenty (20) year term, to allow the operation and maintenance of the existing pipeline system through the County roadways of Palmer Road and Cat Canyon Road near the Cat Canyon Oil Fields north of Los Alamos in the unincorporated territory of Santa Barbara County (EST. TIME 5 MINUTES); and
- d) Set hearing date of November 15, 2011, on the Administrative Agenda to consider the adoption (second reading) of an Ordinance granting a Private Pipeline Franchise to ERG Resources, LLC, for a twenty (20) year term, to allow the operation and maintenance of the existing pipeline system in a portion of the unincorporated territory of Santa Barbara County.

Subject: Notice and Resolution of Intent to Grant a Private Pipeline Franchise to ERG Resources, LLC

Agenda Date: October 4, 2011

Page: 2 of 3

**Summary Text:** This Resolution of Intent sets the dates for the introduction and proposed adoption of the Ordinance that would grant a private franchise to ERG Resources, LLC. The first reading on November 1, 2011, in the Board of Supervisors Hearing Room in Santa Barbara, will be placed on the Departmental Agenda to allow for introduction of the Ordinance, which is attached hereto. The second reading, on November 15, 2011, in the Board of Supervisors Hearing Room in Santa Barbara, will be placed on the Administrative Agenda for the Board's adoption of the Ordinance.

**Background:** ERG resources is applying for a new franchise with the County that would grant them the continued right to operate the private pipelines identified on the maps attached to the Resolution of Intent, which is attached hereto. The pipelines run through County roadway along Cat Canyon and Palmer Road, north of Los Alamos, in the unincorporated area of the County. The pipelines were originally used to service the oil facilities located adjacent to Cat Canyon and Palmer Roads. Although ERG acquired the rights to operate the pipelines under the existing franchise that was originally granted to Texaco, Inc., as Ordinance 2071 on March 23, 1970, the private pipeline that is the subject of this franchise has not been used for some time.

ERG has summarized their purpose regarding renewal of this franchise as follows: "ERG wishes to renew this pipeline franchise agreement in order to preserve the existing franchise agreement originally granted to Texaco in 1970. The franchise agreement originally included a 4" pipeline approximately 15,396 feet long. The pipeline is currently not in service, but was historically used for transporting produced water from the Hammon tank battery, which no longer exists. Produced water is mainly brine water that exists in the same formation as the oil and gas. It is extracted out of the formation along with the oil and gas and the emulsion is separated in a production facility. Once separated, most produced water in the United States is re-injected back into the formation to maintain pressure..."

On January 1, 2010, ownership and operation of the pipeline (as well as the adjacent oil facilities) were acquired by ERG. Although the private pipeline that is the subject of this franchise has not been in operation since that acquisition, the Cat Canyon facilities have been operated by ERG under Land Use Permit No. 10 LUP-00000-00274, issued by the County's Planning and Development Department on July 27, 2010. The private pipeline that is the subject of this franchise was issued Road Encroachment Permit No. 037205, on January 24, 2011, by the County's Public Works Department. Once the pipeline has been inspected, approved for use and reactivated, this will allow ERG the right to use the County roadway to operate the line during the twenty-year term of the franchise.

ERG provided a statement regarding the inspection and integrity of the pipeline as follows: "The existing 4" pipeline included in the pipeline franchise agreement is currently idle. Prior to putting it back into service, the pipeline would be tested to ensure its integrity and safety. ERG will test the pipeline pursuant to the Division of Oil, Gas, and Geothermal Resources regulations, Santa Barbara County Petroleum Ordinance, and American Petroleum Institute Standards (including API 570 and 1104). Pipeline sections found to contain leaks will be repaired or replaced as necessary."

Upon expiration or earlier termination of the franchise, the applicant shall either remove the pipeline from County roadway or abandon the pipeline in accordance with the requirements set forth for such abandonment by the County's Public Works Department. Whether the lines are removed or abandoned will be at the sole discretion of the County, through the Public Works Department. The provision granting the County that discretion is expressly set forth in Section 12 of the franchise agreement, *Removal of Facilities*.

The proposed annual franchise fee of \$2,899.37 is derived from the original franchise fees established forty years ago, increased each five years of the term by cost of living increases. Section 2-82.1, *Private Franchises*, of the County Code provides for three possible methods for calculating private franchise fees: “(1) a specified percentage agreed to by the applicant and the county of the gross annual receipts of the applicant arising from the use, operation or possession of the franchise; or (2) an annual fee in an amount agreed to by the applicant and the county; or (3) an annual franchise fee to be not less than an amount computed by multiplying the sum of one cent times the nominal internal diameter of the pipe expressed in inches times the number of lineal feet of such pipe within the public streets, ways, alleys or other public places within the county.”

The first method set forth in 2-82.1 would produce no annual fees since the line is not currently in use, while the third method would produce an annual fee of \$615.84. Therefore, the agreement by ERG and the County to continue the fee schedule applied to the original Ordinance 2071 (including the cost of living increases applied during the forty-year term) produces the most annual revenue for the County (\$2,899.37). The Franchise Agreement reserves for the County the right to increase the annual franchise fees every five years, and to increase those fees to correspond to any future increases in fees set forth by the applicable provisions of the Santa Barbara County Code or the California Public Utilities Code. The franchise fees will continue to increase every five years according to increases in the Consumer Price Index.

In addition to the annual franchise fees and the insurance requirements set forth in the franchise agreement, the County Code requires an applicant for a pipeline franchise to provide a Performance Bond. The bond will ensure that the annual franchise fees are paid, and that in case of expiration or early termination of the franchise, the pipeline system will be removed or abandoned in place. The bond will not be exonerated until a release is obtained from the Director of Public Works and from the Auditor-Controller. In this case, the County is requiring a \$100,000 bond, which is the same bond amount required for other recent pipeline franchises with the County.

**Fiscal and Facilities Impacts:**

In accordance with Section 2-82.1 The Santa Barbara County Code, the annual franchise fee, in the amount of \$2,899.37, will be paid by ERG to the County. There will be no facilities impacts.

**Special Instructions:** After Board action, distribute as follows:

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| 1) Original Notice of Exemption and Original Notice and Resolution of Intent to Grant a Private Pipeline Franchise | Clerk of the Board File |
| 2) Copy of Notice of Exemption and Notice and Resolution of Intent to Grant a Private Pipeline Franchise           | GS/Real Estate Svcs.    |
| 3) Minute Order  | GS/Real Estate Svcs.    |

**NOTE:** Please post the Notice of Exemption, and publish the attached Public Notice in the Santa Maria Times at least ten days prior to the first reading date of November 1, 2011.

**Attachments:**

- Notice of Exemption (CEQA)
- Notice and Resolution of Intent to Grant a Private Pipeline Franchise
- Public Notice
- Ordinance